

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FRANCISCO P. CASTILLO, JR.,

No. C 10-04149 CW (PR)

Petitioner,

v.

ORDER DENYING PETITION FOR A
WRIT OF HABEAS CORPUS; DENYING
CERTIFICATE OF APPEALABILITY

R. GROUNDS, Warden,

Respondent.

Petitioner seeks a writ of habeas corpus under 28 U.S.C.

§ 2254 challenging as a violation of his constitutional rights the 2009 decision to deny him parole by the California Board of Parole Hearings (Board). Petitioner specifically claims that the decision does not comport with due process because it is not supported by some evidence demonstrating that he poses a current unreasonable threat to the public.

In the context of parole, a prisoner subject to a parole statute similar to California's receives adequate process when he is allowed an opportunity to be heard and is provided with a statement of the reasons why parole was denied. Swarthout v. Cooke, No. 10-333, slip op. at 4-5 (U.S. Jan. 24, 2011). The attachments to the petition show Petitioner received at least this amount of process. The Constitution does not require more. Id. at 5.

Whether the Board's decision was supported by some evidence of current dangerousness is irrelevant on a petition for a writ of habeas corpus in federal court. The Supreme Court has made clear that "it is no federal concern . . . whether California's 'some

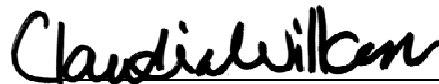
1 evidence' rule of judicial review (a procedure beyond what the
2 Constitution demands) was correctly applied." Id. at 6.

3 For the foregoing reasons, the petition for a writ of habeas
4 corpus is DENIED, and the Court's Order to Show Cause is
5 discharged. Pursuant to Rule 11 of the Rules Governing Section
6 2254 Cases, a certificate of appealability under 28 U.S.C.
7 § 2253(c) is DENIED because it cannot be said that "reasonable
8 jurists would find the district court's assessment of the
9 constitutional claims debatable or wrong." Slack v. McDaniel, 529
10 U.S. 473, 484 (2000). Petitioner may seek a certificate of
11 appealability from the Ninth Circuit Court of Appeals.

12 The Clerk of the Court shall enter judgment in favor of
13 Respondent, terminate all pending motions, and close the file.

14 IT IS SO ORDERED.

15 Dated: 2/15/2011



16 CLAUDIA WILKEN
17 UNITED STATES DISTRICT JUDGE
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

FRANCISCO P CASTILLO JR,

Case Number: CV10-04149 CW

Plaintiff,

CERTIFICATE OF SERVICE

v.

R GROUNDS et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 15, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Francisco P. Castillo C-85768
Correctional Training Facility - Central
P.O. Box 689
Soledad, CA 93960

Dated: February 15, 2011

Richard W. Wieking, Clerk
By: Nikki Riley, Deputy Clerk

United States District Court
For the Northern District of California